

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. No. 488/Asr/2024
Assessment Year: 2014-15

Sanju Gupta
27-A, Gandhi Nagar
Patel Nagar Last Morh,
Jammu-180004
Jammu & Kashmir

Vs.

Income Tax Officer,
Ward 1(1), Jammu,
Aayakar Bhawan, Pannama
Chowk, Jammu, J & K.

[PAN: AJQPG4995B]

(Appellant)

(Respondent)

Appellant by : Sh. P. N. Arora, Adv.
Respondent by : Sh. Manpreet Singh Duggal, Sr. D.R.
Date of Hearing : 19.03.2025
Date of Pronouncement : 29.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Ld. CIT(A) National Faceless Appeal Centre (NFAC), Delhi passed u/s 250(6) of the Income Tax Act, 1961 dated 02.02.2024 which has emanated from the order of the Assessing Officer, NFAC, passed u/s 144 r.w.s. 147 of the I.T. Act, 1961 dated 30.03.2021.

2. **Condonation of delay:** It is pointed out by the registry that this appeal is filed belatedly by 147 days. The assessee has filed an application seeking condonation of delay along with an affidavit, stating that the order of the Id. CIT(A) was passed on 2nd February, 2024 and the due date of filing the appeal expired on 3rd April, 2024 but the assessee was totally unaware regarding the existence of the order passed by the Id. first appellate authority because the *e-mail id and the mobile number* given in the portal belongs to the accountant of the assessee, who never informed the assessee regarding disposal of the appeal case. The assessee came to know of the outcome of the appeal case when he received recovery notices. Thereafter, with the help and guidance of his newly appointed counsel this appeal is filed before the Hon'ble Tribunal belated by 147 days. He further submitted that he is a person without any knowledge of computers and was fully dependent on his accountant and since the delay in filing this appeal was not intentional, the same may please be condoned and he prayed that the appeal may please be admitted to be heard on merits.

3. The Id. DR has no objection, and considering the reasons we condone the delay and admit the appeal for hearing on merits.

4. The grounds of appeal contained in form 36 are as follows:

"1. That the Assessment Order dated 14/02/2022 passed by the Assessing Officer. National Faceless Assessment Centre, Delhi u/s 144 r.w.s. 147 of the Income

Tax Act, 1961 and the order of the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi dated 02/02/2024 thereby confirming the order of the Assessing Officer (AO) are both against the facts of this case and are untenable under the law.

2. *That no reasonable and proper opportunity of being heard was allowed by the AO, National Faceless Assessment Centre, Delhi before passing the order u/s 144 r.w.s. 147 thereby making an addition of Rs.1,03,77,442/- by invoking the provisions of section 69A of the IT Act, 1961. As such the order passed by the AO is liable to be cancelled. Similarly, the CIT(A) has also grossly erred in confirming the order of the AO without appreciating the facts of this case and without applying his mind. As such the order passed by the Ld. CIT(A) thereby confirming the order of the AO is bad in the eyes of law and the same is liable to be cancelled.*
3. *That the A.O. has grossly erred in making the addition of Rs.1,03,77,442/- on account of unexplained money u/s 69A of the IT Act, 1961. Similarly, the CIT(A) has also grossly erred in confirming the same without appreciating the facts and circumstances of this case. As such the order of the CIT(A) thereby confirming the addition of Rs.1,03,77,442/- is bad in the eyes of law and the same may be cancelled. The order of the Learned CIT(A) is ex-parte order and is bad in the eyes of law and the same is liable to be cancelled.*
4. *That the Ld. CIT(A) did not appreciate that the cash amounting to Rs.1,03,77,442/- was deposited in cash credit limit Account No: 00171 with J&K Bank, Gandhi Nagar, Jammu by my Late Father Shri Kasturi Lal Gupta Proprietor M/s Kasturi Lal & Sons and this bank account belongs to my father Late Shri Kasturi Lal Gupta.*
5. *That the authorities below did not appreciate that I have got nothing to do with the said bank account as the same belong to my late father Shri Kasturi*

Lal Gupta and the said bank account was operated with the PAN of my father i.e. ACNPL8117G. My father Shri Kasturi Lal Gupta expired on 22/09/2016. Thus, there was no reason and occasion in assessing the same in my hands.

6. *That the authorities below did not appreciate that even subsequently the banking authorities continue with the same account on 27/02/2017 i.e. the date of change of proprietorship without closing the old account especially when my father expired on 22/09/2016. The copy of bank certificate was/duly furnished in which it was proved that during AY 2014-15, the account/was shown under my father's PAN and all the transactions were duly disclosed by him while filing the ITR for AY 2014-15 which is very clear from copy of ITR, Audited Balance Sheet and P&L Account submitted before the authorities below.*
 7. *That all these facts have not been appreciated by the worthy CIT(A) and there was no reason and occasion for assessing the same in my hands. As such, the addition made by the AO u/s 147 and confirmed by may be deleted. Alternatively, the addition made is very the CIT(A) high & excessive.*
 8. *That the order of Ld. CIT(A) is bad in the eyes of law as the worthy CIT(A) has not decided the appeal on the basis of grounds of appeal and has also not decided the appeal on merits. As such the order of the Ld. CIT(A) is liable to be cancelled.*
 9. *That any other grounds of appeal which may be argued at the time of hearing of the appeal.”*
5. Brief facts emerging from the record are that the proceedings has been initiated against the assessee on the basis of information in the *insight portal of ITBA* that the

assessee has made cash deposits amounting to *Rs.1.03 crores in his Bank A/c No. xxxxxx00171* in Jammu and Kashmir Bank , during the financial year 2013-14 (*relevant to AY 2014-15*). In absence of any regular return on record, proceedings has been initiated by issue of notice u/s 148, which was followed by subsequent letters and notices u/s 142(1) issued on various dates. However, in absence of any return in response to the notices u/s 148 and without any explanation from the assessee, the assessment was completed *ex-parte* on a total income of Rs. 1,03,77,442/- , u/s 147 r.w.s. 144 of the Act.

6. The matter was carried in appeal before the Id. CIT(A) NFAC, where the appeal has been dismissed in absence of any representation from the assessee. It is seen from the appellate order that the hearing of the case was fixed on five separate occasions where notice has been issued in the ITBA portal and also in the e-mail *idcaratishgupta54@gmail.com*, as stated in Form No. 35, but even then also, there has not been any response from the assessee.

7. However, in the statement of facts and grounds of appeal filed by the assessee with *Form No. 35*, it has been stated that the concerned bank account maintained with in *J & K Bank and the A/c No. xxxxxx00171*, where cash has been deposited actually belongs to the father of the assessee *Sh. Kasturi Lal Gupta (now deceased)*, who was the sole proprietor of a proprietorship concern *M/s Kasturi Lal and Sons*.

8. For the year under appeal relating to the financial year 2013-14, the father of the assessee *Sh. Kasturi Lal Gupta* was the concerned person who was separately assessed to tax under *PAN: ACNPL 8117G* and it is also stated by the assessee that bankers has also issued a certificate that the said bank account in question belongs to the father of the assessee *Sh. Kasturi Lal Gupta*, who unfortunately expired on 22nd September, 2016 , and after his death the same bank account is being operated by the assessee for the purpose of his own business under his *PAN No. AJQPG 4995B*.

9. He further submitted in his statement of facts (SOF) that the father of the assessee was a regular tax payer and his accounts were audited and the concerned bank account is also reflected in his balance sheet and his return has been duly submitted on 05.12.2014. It is also contained in the statement of facts , that the entire deposits in bank account has come out of sale proceeds of his father's regular business which is duly accounted for in books of account.

10. However, it is seen that the ld. CIT(A) has not considered the above submissions and has dismissed the appeal without adjudication on merits of the case.

11. In course of hearing, the ld. AR of the assessee reiterated the same arguments which are contained in the statement of facts and he relied on the copy of the *bank certificate (issued by the J & K Bank authorities)* in support of his contention that the said bank account was actually bank account of his late father *Sh. Kasturi Lal*

Gupta who was the proprietor of *M/s Kasturi Lal Gupta & Sons* and the entire deposits are already considered in regular books account and reflected in regular return filed by the father of the assessee before his death. As such, he prays for an opportunity to produce all the documentary evidences before the Assessing Officer to prove his case because according to him no proper opportunity has been granted by the Assessing Officer in course of assessment proceedings.

12. The Id. DR relied on the order of the Id. CIT(A) but has no objection if the matter is remanded back to files of the AO for fresh assessment.

13. We have heard the rival submissions and considered the materials on record and we find that in the interest of justice, especially considering the bankers certificate issued by J & K Bank dated 16.06.2022, that this particular bank account maintained with J & K Bank originally belongs to the proprietorship concern of *late Sh. Kasturi Lal (father the of the assessee)* which was subsequently taken over by the assessee upon his father's death on 22.09.2016.

14. A copy of the death certificate of *Late Kasturi Lal Gupta* is also submitted by the assessee, along with the copy of the bank statement. As such in the interest of justice and for proper adjudication of the mater, we set aside the matter back to the files of the Assessing Officer for fresh assessment as per law, and we direct the

assessee to file all necessary documentary evidences along with books, before the AO in support of his case and to fully co-operate in fresh proceedings.

15. The assessee shall be allowed reasonable opportunity of being heard.
16. We have not expressed any opinion on merits.
17. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 29.05.2025.

Sd/-
(Krinwant Sahay)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1)The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order